

BILL ANALYSIS

S.B. 453
By: Ellis
Corrections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the Texas Department of Criminal Justice (TDCJ) provides volunteer, or "opt-out", human immunodeficiency virus (HIV) screening for inmates during the diagnostic process upon entry into the prison system. According to TDCJ officials, an estimated 80% of inmates are tested. Mandatory HIV testing is required of all inmates prior to release from a state correctional facility.

There is an extremely high rate of HIV/AIDS in prisons. Individuals who are aware of their status are less likely to engage in potentially risky behavior and are less of a risk for spreading the infection. In addition, prisoners who remain ignorant of their HIV status cannot be properly treated and counseled; their disease will worsen and they will continue to infect others, increasing the cost of state medical care and the threat to public health.

Mandatory HIV testing upon entry into a correctional facility is an important step in halting the spread of HIV/AIDS. HIV testing of inmates upon entry will give the opportunity for earlier partner notification and enable those infected to receive proper treatment and counseling.

SB 453 requires TDCJ to test certain inmates entering into a correctional facility for HIV during the diagnostic process.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 501.054, Government Code, by amending Subsections (g) and (i) and adding Subsection (j), as follows:

(g) Requires the Texas Department of Criminal Justice (TDCJ) to maintain the confidentiality of test results of an inmate indicating HIV infection at all times, rather than only after the inmate's discharge or release, as is in current statute. Makes conforming changes.

(i) Authorizes the TDCJ, rather than the institutional division, to test an inmate confined in a facility operated by the correctional institutions division for HIV at any time, and additionally requires TDCJ, during the diagnostic process, to test an inmate for whom TDCJ does not have a record of a positive test result. Makes conforming changes.

(j) Authorizes the TDCJ, rather than the institutional division, to segregate an inmate from other inmates if it determines that the inmate has a positive test result. Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

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